

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Acceleration of Broadband Deployment)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of)	
Broadband Deployment by Improving Policies)	
Regarding Public Rights of Way and Wireless)	
Facilities Siting)	

**COMMENTS OF
THE JEFFERSON COUNTY LEAGUE OF CITIES CABLE COMMISSION**

The Jefferson County League of Cities Cable Commission, by and through its legal counsel submits these comments in response to the Notice of Inquiry ("NOI"), released April 7, 2011, in the above-entitled proceeding.

Introduction

The following Kentucky cities have formed the Jefferson County League of Cities Cable Commission ("JCLCC") pursuant to the Interlocal Cooperation Act of Kentucky, KRS 65.210 to 65.300: Anchorage, Bancroft, Brairwood, Cambridge, Coldstream, Graymore-Devondale, Hickory Hill, Hollow Creek, Hurstborne Acres, Kingsley, Lyndon, Meadowbrook Farm, Meadowview Estates, Meadowvale, Norwood, Parkway Village, Pewee Valley, St. Regis Park, Seneca Gardens, Sycamore, Ten Broeck, Watterson Park, Woodland Hills. The purpose of the JCLCC is to jointly exercise all lawful powers authorized related to the provision, regulation, and control of cable television on behalf of the citizens of the member cities. In 1996, JCLCC negotiated a model franchise with the cable operator, which was adopted by all of the member cities. The franchises expire in December, 2011. Our current cable franchisee is Insight Communications.

Timeliness & Ease of Permitting Process

47 CFR 76.41 (d) states when a competitive franchise applicant files a franchise application with a franchising authority and the applicant has existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority shall grant or deny the application within 90 days of the date the application is received by the franchising authority. If a competitive franchise applicant does not have existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority must perform grant or deny the application within 180 days of the date the application is received by the franchising authority.

Of particular concern to the JCLCCC are the time limits that the FCC's rules place on franchise negotiations. Under these rules, a local franchising authority ("LFA") has 90 days to act if "the applicant has existing authority to access public rights-of-way", 180 days otherwise.

The FCC's 90-day/180-day "shot clock" makes it virtually impossible for LFA's in Kentucky to negotiate franchises. Sections 163 and 164 of the Kentucky Constitution provide that before granting a franchise for cable or telephone service, a municipality must first, after due advertising, receive bids therefore publicly. KRS 424.130(1)(b) provides that bids must be advertised not less than seven (7) days before the bid opening occurs.

Therefore, in Kentucky, not only are municipalities required to enact a franchise ordinance, they are also required take bids on the franchise and grant said franchise either by resolution or ordinance. Please note that Kentucky law requires that ordinances receive two "readings" at two separate meetings¹. Many of the members of the KRCC are small cities that hold monthly meetings. Additionally, Kentucky law provides that no ordinance shall be effective until published.² Thus, there is additional time required by the publishing requirement. Clearly, the ninety (90) day rule does not even give the members cities of the KRCC time to comply with state law, let alone enter into meaningful negotiations.

Conclusion

The JCLCCC would like to thank the Commission for its efforts to better understand the practices and policies surrounding local governments' management of the public rights of way. We strongly urge the Commission to consider our comments, as well as those submitted by communities across the country, before taking any action that may adversely affect local governments' rights of way authority. The Commission must resist moving forward in any other contexts to act on any of the issues raised in the NOI until the record in this proceeding is complete.

Respectfully submitted,

Jefferson County League of Cities Cable
Commission

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¹ KRS 83A.060 (4)

² KRS 83A.060 (9)